

SENATE BILL 2745

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 12;
Title 13 and Title 29, relative to relative to eminent
domain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 13-20-104(a), is amended in
subdivision (17) by adding the following language to the end of the subdivision:

provided, however, this subdivision shall not apply to those housing development
projects, redevelopment projects, or urban renewal projects that are approved by a
governing body on or after July 1, 2012;

SECTION 2. Tennessee Code Annotated, Section 13-20-106, is amended by
designating the current language as subsection (a) and by adding the following as a new
subsection (b):

(b) For projects pending approval by a governing body on or after July 1, 2012,
where a housing authority undertakes a study or conducts research under subsection
(a), the authority shall present the results of such study or research as the authority
deems relevant to assist the governing body in taking appropriate actions necessary to
acquire property by eminent domain for the project.

SECTION 3. Tennessee Code Annotated, Section 13-20-108, is amended by adding
the following as a new subsection (e):

(e) This section shall not apply to those projects approved by the governing body
under § 13-20-104(e) on or after July 1, 2012.

SECTION 4. Tennessee Code Annotated, Section 13-20-109, is amended by
designating the current language as subsection (a) and by adding the following as a new
subsection (b):

(b) This section shall not apply to the exercise of eminent domain for those housing projects approved by the governing body on or after July 1, 2012.

SECTION 5. Tennessee Code Annotated, Section 13-20-203, is amended by adding the following as a new subsection:

(c) Pursuant to § 13-20-702, for any redevelopment project approved by the governing body under this section on or after July 1, 2012, the governing body shall have the power of eminent domain to acquire real property, including improvements and fixtures thereon, which the governing body deems necessary for an approved redevelopment project. For purposes of notice under subdivisions (a)(3) and (b)(3), the application of those provisions remains unchanged except that failure to give notice required may be raised only by an owner or occupant having an interest in property as a defense on the trial of the issue of the right of the governing body, on behalf of the housing authority, to acquire the property by eminent domain.

SECTION 6. Tennessee Code Annotated, Section 13-20-212, is amended by adding the following as a new subsection:

(d) As provided in § 13-20-702, for any urban renewal project approved by the governing body on or after July 1, 2012, the governing body shall have the power of eminent domain, on behalf of the housing authority, to acquire real property, including improvements and fixtures thereon, which the governing body deems necessary for an urban development project.

SECTION 7. Tennessee Code Annotated, Title 13, Chapter 20, is amended by adding the following as a new part thereto:

13-20-701.

For purposes of this chapter, unless the context otherwise requires:

(1) "Developer" means any private enterprise or public agency developing or redeveloping residential property as provided in this part;

(2) "Governing body" means the governing body of a city or county, or a city or county with a metropolitan form of government;

(3) "Owner occupant" means the person having title to and residing at the residential property at the time it was acquired by eminent domain; and

(4) "Residential units" includes one-family and two-family dwellings and dwelling units as defined in this chapter.

13-20-702.

(a) Notwithstanding any provision of law to the contrary in title 13, chapters 20 and 21, or title 29, chapters 16 and 17, beginning July 1, 2012 and thereafter, if the municipal or county governing body approves a housing project, redevelopment project or urban renewal project proposed by a housing authority located within the jurisdictional boundaries of such governing body, that governing body shall have the power of eminent domain to acquire real property to vest in the housing authority pursuant to § 13-20-703(b), including improvements and fixtures thereon, which the governing body deems necessary for the approved housing project, redevelopment project, or urban renewal project.

(b) Property already devoted to a public use may be acquired for such projects; provided, that such property shall only be acquired in the same manner and to the same extent as property devoted to a public use may be acquired in accordance with § 13-20-108(c).

(c) This section shall not be construed to limit the power of a housing authority to purchase property without exercising the power of eminent domain.

(d) This section shall not be construed as granting authority to the governing body to declare that an area is “blighted” or a “slum”.

13-20-703.

(a)

(1) No sooner than thirty (30) days after the filing of a petition by a governing body for condemnation of property for those projects authorized by the governing body pursuant to § 13-20-702(a), and before the entry of final judgment, a governing body may file with the clerk of the court in which the petition is filed a declaration of taking signed by the duly authorized officer or agent of the governing body, declaring that all or any part of the property described in the petition is being taken for the use of a designated housing authority.

(2) The declaration of taking shall be sufficient if it sets forth:

(A) A description of the property, sufficient for the identification thereof, to which there may be attached a plat or map thereof;

(B) A statement of the estate or interest in such property being taken; and

(C) A statement of the sum of money estimated by the housing authority to be just compensation for the property taken, which sum shall be not less than the last assessed valuation for tax purposes of the estate or interest in the property to be taken.

(b) From the filing of the declaration of taking by the governing body and the deposit in court to the use of the persons entitled thereto of the amount of the estimated compensation stated in the declaration, title to the property described as being taken by the declaration shall vest in the housing authority, free from the right, title, interest or lien of all parties to the cause, and such property shall be deemed to be condemned and taken for the use of the housing authority, and the right to just compensation for the same shall vest in the persons entitled thereto.

(c) At any time prior to the vesting of title to property in the housing authority, the governing body may withdraw or dismiss its petition with respect to any or all of the property therein described.

13-20-704.

(a) Upon the filing of a declaration of taking under § 13-20-703, the court shall designate a day, not exceeding twenty (20) days after such filing, except upon good cause shown, on which the persons in possession shall be required to surrender possession to the authority.

(b) In the event a governing body files a declaration of taking and pays into court an amount estimated to be fair compensation for such property as provided in this section, the property owner shall have the right to make written request to the clerk of the court wherein such funds have been deposited, to pay to such property owner without prejudice to any of the property owner's rights, the sum so deposited with the clerk, and the clerk shall pay to the owner the sum so deposited; provided the owner agrees to refund the difference between such sum and the final award in the case if the final award is less than the sum so paid into court or that a judgment may be entered against the owner in such case for the difference. Payment to the property owner or into court shall in no way limit

or fix the amount to be allowed under subsequent proceedings in such case, and any further or additional sum that may be finally awarded in any subsequent proceedings shall bear interest from the date of taking possession of the property or property rights condemned by the condemner; provided, that no interest shall be allowed on the amount deposited with the clerk.

(c) The clerk shall be authorized to disburse the deficiency to the defendants as their interests may appear.

(d) For purposes of this part, whenever the power of eminent domain as herein conferred is exercised, in estimating the damages, the jury or jury of view, as the case may be, shall give the value of the land or rights taken without deduction, together with incidental damages, if any. Where the removal of furniture, household belongings, fixtures, merchandise, stock in trade, inventories, equipment or machinery is made necessary by the taking, the reasonable expense of such removal shall be considered in assessing incidental damages. The reasonable expense of the removal of such chattels shall be construed as including the cost of any necessary disconnection, dismantling or disassembling, the loading, and drayage to another location not more than ten (10) miles distant, and the reassembling, reconnecting, and installing in such new location.

13-20-705.

(a) For redevelopment projects approved on or after July 1, 2012, the governing body shall provide the opportunity for owner occupants of residential property so acquired for a redevelopment project to relocate within the project area if or at such time as residential units are constructed and offered for sale to the general public as a part of the project. The governmental body shall direct

the developer to publish a notice in a newspaper of general circulation within the county where the project area is located. Such notice shall provide to each owner occupant of residential property acquired by eminent domain for a redevelopment project an offer to relocate within the project area. The notice shall contain a description of the property to be redeveloped. The notice shall contain a name and address to whom the owner occupant may respond to accept the offer. The governmental body shall direct the developer to record the notice in the registrar's office. Each owner occupant shall have ninety (90) days from the date of publication to accept the offer contained in the notice. Any acceptance shall be in writing. Any owner occupant who has not responded to the notice before the expiration of the ninety (90) days from publication shall be deemed to have rejected such offer, and any interest therein shall be deemed to be terminated.

(b) This section shall apply only if the initial redevelopment project for which such property is acquired is for residential purposes.

(c) No provision of this section shall be construed to vest any interest or rights in the heirs or estate of any deceased owner occupant.

(d) This section shall not apply to residential units or dwelling units developed under programs limiting income of purchasers to a certain maximum income or other requirements for which the original owner occupant is not eligible.

13-20-706.

No governing body shall have the power to take by eminent domain private property in an urban renewal area for the purpose of resale, if the owner of such property desires to develop such owner's own property and if the

designated reuse of the property in the urban renewal plan is such that the owner's parcel can be redeveloped by itself without affecting the objectives of the urban renewal plan as to the owner's parcel or adjoining or adjacent properties thereto, and the owner signs an agreement with the taking entity to abide by the urban renewal plan, in any development thereof.

13-20-707.

Whenever the acquisition of any real property in a designated blighted area is proposed and is predicated solely upon the findings that the structure or structures involved are dilapidated and are in violation of the applicable building and housing codes, the owner of the property shall be notified of the planned acquisition by certified mail to the owner's latest address of record, and the owner shall be accorded a reasonable time, in no case less than ninety (90) days from the date of the notice, to bring the substandard structure into compliance with such codes.

SECTION 8. Tennessee Code Annotated, Section 29-17-102, is amended in subdivision (2)(C) by deleting the language "by a housing authority or community development agency" and by substituting instead the language "for the benefit of a housing authority or community development agency on or after July 1, 2012".

SECTION 9. Tennessee Code Annotated, Section 29-17-501, is amended by adding the following as a new subsection thereto:

(c) This section shall apply to the exercise of eminent domain by a housing authority for projects approved by a governing body before July 1, 2012.

SECTION 10. This act shall take effect July 1, 2012, the public welfare requiring it.